COUNTRY EXPERIENCE IN LAND ISSUES

TRINIDAD & TOBAGO

by

Dr. Asad Mohammed
Coordinator, Graduate Programme
University of the West Indies

Under Subcontract to Development Alternatives, Inc.
Financed by U.S. Agency for International Development,
BASIS IQC LAG-I-00-98-0026-0

April 24, 2003

TABLE OF CONTENTS

Page

1. INTRODUCTION

The government of Trinidad and Tobago has recently completed a comprehensive Landuse Planning and Administration Technical Assistance Programme (LUPAP) funded by the Inter-American Development Bank. This programme was completed approximately a decade after another comprehensive sectoral analysis established the programmatic framework for land related reform. The previous effort was itself conducted some ten years after a major legislative review, which resulted in a comprehensive set of land legislature being passed in the parliament. It is fair to say that the analysis, recommendations and programmatic framework coming out of these studies have not been matched by implementation. While there remain inadequate or confused areas of analysis and policy or programmatic solution, the cause for this gap between recommendation and implementation lies mostly outside the realms of technical issues.

The 1980's comprehensive Land Law Reform package was abandoned with some justification, but has been replaced by an ad hoc legislative agenda. The consistent leadership and coordination required for meaningful reform has been lacking and has been made worse by frequently changing administrations that mitigates against continuity. The national LIS/ GIS remains a dream and coastal zone policy, plans and standards for development are a regional embarrassment. Land pricing, distribution and beneficiary policies are governed by expediency rather than consistency and rationality.

Notwithstanding these general problems there has been meaningful improvements in many areas that will be discussed. The level of success or simply implementation of policy must however be judged against the 1992 policy document "A New Administration and Distribution Policy for Land" (GOTT 1992) which was the last comprehensive land policy statement of the government and followed the Wisconsin Land Tenure Centre study (1992).

This paper will review progress under the key headings in that policy statement before addressing other areas not dealt with. The paper does not attempt to detail the analysis, recommendation or implementation in all the aspects of land policies. Rather it tries to provide an overview of key issues that have hindered the process of reform and issues not adequately addressed in policy to date. There are however, a few conceptual issues that will first be reviewed.

1.1. Addressing Historical Legacies

Limited accessibility of the poor: A fundamental issue which has not been adequately addressed in the ongoing reviews of the land administration and management systems is the historical basis of many of the present land related problems. Post-emancipation land policy that was clearly enunciated by Colonial Secretary Glenelg in Burnley (1842) can be seen as a root cause of much of these problems.

The policy of systematic denial of access to affordable land by the formerly enslaved established the basis of present day problems of lack of access by the majority of the population, squatting, inappropriate land-use and environmental practices by the poor. These problems thus have a more than 150 year history and were caused by intentional action by the state rather than inadvertent outcomes of policy, market or institutional failure. These problems were furthered by programmes of land access for indentured East Indian labourers who received or purchased mostly marginal and barren lands from either the State or the market.

Ethnicity And Access To Land: While the reality is that very few East Indians got access to land in lieu of passage back to India, there have been mythologies perpetuated that widespread access to land through this mechanism was the basis of the land holdings and economic status of present day East Indians. Underlying fears of the "other" group between the large African and East Indian populations as beneficiary of state largess in land distribution programmes in the post-emancipation period, real or imagined, has thus coloured and retarded open, fair and effective land distribution programmes. However, this issue is never openly addressed by academics, administrator or international technical specialists. Politicians have addressed the issue but not in a manner to resolve its negative impacts. These problems are relatively unique to the southern Caribbean countries of Guyana and Trinidad (not Tobago) and require different understandings and solutions than in the rest of the English speaking Caribbean.

Narrow Definition Of Land: Despite being islands the definition of land in Trinidad and Tobago has a terrestrial focus. While most of the rest of the Caribbean have understood the importance of the coastal zone and the near shore area for their tourism and fishing industries, Trinidad and Tobago still deals with these areas largely in the realm of State Land Administration with inadequate integration of the various key stakeholders in its management. This is quite surprising because this country has exploited its offshore resources more than any other Caribbean country due to its petroleum and natural gas industries. It also has a maritime boundary with its neighbour Venezuela with demanding management issues. As development accelerates in the coastal and marine environment the need for appropriate analysis, policy and standards becomes even more critical.

The need to specify the efficient use and management of coastal and seabed lands within the 200 mile Exclusive Economic Zone (EEZ) can also help to bring this neglected area into greater focus.

1.2. Land Resources In Trinidad and Tobago

Trinidad and Tobago has a population of just over 1.26 million people based upon the recently released 2000 Census. The gross domestic product (GDP) in 2002 was US$ 8.4 billion with a GDP per capita of US$ 6,278. Real GDP grew by 3.3% in 2001 and an estimated 4.5% in 2002. The sectoral composition of GDP demonstrates a continuing shift away from agriculture, which contributed only 1.6% towards the services sector (55.2% of GDP). Industry, which is the strongest in the region, accounted for 43.2% of GDP.

The total land area of the twin island country is 512,600 hectares with Tobago being a little less than 32,000 hectares. While the exact figures are unknown, approximately 52% (266,500 ha) is regularly used as the area owned by the State. In Tobago it is lower at 34% (10,772 ha).

Land Use: Distribution of both public and private lands according to use is not accurately recorded in published documents. While there is some graphic representation in planning documents, Figure 2 based upon an old land capability study gives an indication of this distribution.

Table 1 Land Capability Classes and Areas – Trinidad and Tobago

Capability Class	Description	Trinidad (acres)	Tobago (acres)
1	Suitable for cultivation without special practices	5,301	682
2	Suitable for cultivation without simple practices	17,920	8,298
3	Suitable for cultivation without intensive practices	164,173	16,395
4	Suitable for cultivation only with special practices though best suited to growing pasture grasses and tree crops	254,662	15,872
5	Not suitable for cultivation but suitable for pasture, fruit, other tree crops or forests	295,832	21,027

Capability Class	Description	Trinidad (acres)	Tobago (acres)
6	Not suitable for cultivation due to slope and/or water limitation: best left under indigenous growth or forest	261,500	10,542
7	Unsuitable for agriculture due to very steep slopes, best left under indigenous growth or forest	190,212	668
Totals		1,189,600	73,484

Agricultural uses have however been declining. 1998 Ministry of Agriculture estimates suggest that only 14.62% of total land area is actually arable and of that, only 9.16% is in active agriculture. This leaves some 76.22% in other land uses.

State Lands: Despite various attempts to accurately calculate the extent and nature of state land ownership and distribution including a relatively successful State Lands Information System (SALIS),the picture is still very vague. Out of the total state land area of 266,552 ha, 126,490 ha are under forest and the balance is shared by a range of state agencies and companies. By far the largest amongst these are the Commissioner of State Lands (COSL) and the Land Administration Division (LAD) of the Ministry of Agriculture. The following table is derived from a 2000 LUPAP report.

Table 2: Hectares Managed by Institutions

	Agency	Hectares Managed
1	LAD-COSL	68,436
2	Caroni (sugar company)	31,567
3	National Housing Authority	14,600
4	Petrotrin (Petroleum Company)	10,118
5	Chaguaramas Development Authority	4,856
6	PIDCOTT (Industrial Estates)	371
7	SILWC (Sugar Workers lands)	28
	Sub-Total	**129,976**
	COSL, and Various others	**10,086**
	TOTAL	**140,062**

Security of Tenure: There are different ways in which security of tenure can be measured. This can vary from a strictly legalistic measure based on documentable title to the perception of the landholder. There is some evidence in Trinidad and

Tobago that there is a strong perception of security of tenure even amongst the squatting community where there would be no documentable evidence (Rajack, 1999). The definitive measure of documentable tenure status is not available for Trinidad and Tobago but Table 3 provides a useful estimate.

Table 3: Formal Tenure Insecurity on House Parcels
(Privately Owned and State Owned Land: National Estimates).
Documents Possessed by Holders of House Parcels

Type	**Deed Up-to-Date**	**Lease Up-to-Date**	**Other Doc.***	**No Doc.**	**Total**
House parcels on privately owned land	119 435	34 197	69 926	31 645	255 203
% (84.9% total)	46.8	13.4	27.4	12.4	100%
House parcels on State owned land	0	5 492	17 883	22 014**	45 389
% (15.1% total)	0	12.1	39.4	48.5	100%
Total	119 435	39 689	87 809	53 659	300 592
%	39.7	13.2	29.2	17.9	100%

* Other documents include an out-of-date lease or a lease in the name of a person other than the holder of the land, a deed in the name of a person other than the holder, a tax receipt, a rent payment receipt, a private purchase document or receipt.

**This category is best defined as squatters. NHA estimates that there are about 25 000 housing squatters on State owned land, which is somewhat more than the 22 014 estimate in the Table, but of the same order of magnitude. The problem of squatting may be even more serious on privately owned land. More study is needed of these phenomena to derive better estimates of the urban tenure problems.

Source: Table 6, Annex 12 - 1991 Landholder Survey, 1990 Population Census

2. GENERAL POLICY GOALS

The 1992 policy document established four broad policy goals, with the underlying objective of greater efficiency in the use and management of land.

- Preventing prime agricultural land from being subjected to non-agricultural use by instituting a system of land zoning.
- The provision of adequate security of tenure for tenants on State lands.
- Discouraging of land speculation and the taking of steps to bring idle land into production.
- The promotion of development that is sustainable economically, socially and ecologically.

These goals seem to be generally acceptable but two need greater scrutiny and possibly two more need to be added. A realistic examination of the present and future role of agriculture needs to be undertaken if agricultural potential is to be prioritized over competing uses. The introduction of a land zoning system is also not in harmony with the existing statutory form of land use designation and control and needs to be approached first cautiously and then comprehensively, if adopted. The role of speculation in the operation of land markets tends to be reasonably stigmatized and is much less harmful than unrealistic land use standards that keep lands in non-viable sizes of holdings and land use types.

Certainly, a specific goal of state land policy should be to address the historical inadequate access to land by the poor through improving land market efficiency as well as better targeting of subsidies to disadvantaged groups to facilitate access.

3. INTER-AGENCY COORDINATION AND RATIONALIZATION

The 1992 policy highlights the roles of ten Agencies in seven Ministries with responsibilities relating to land administration and distribution. At that time however there was an attempt to coordinate four of the key administrative and management agencies within one ministry. The Lands and Survey Division, the Town and Country Planning Division, the Valuations Division and the Environmental Management Division had been assembled within the Ministry of Planning and Development. The remaining agencies carrying out sectoral functions utilizing state lands were unaffected.

Subsequent to that, there appears to have been a reduction of attempts at coordination with extensions of management and administrative as well as sectoral and distributional functions in line agencies. Noticeably, there is a new Environmental Management Authority that is in a separate Ministry from the Town and County Planning Division and there are new agencies dealing with land distribution

functions, notably the Land Administration Division (LAD) of the Ministry of Agriculture and a Land Settlement Agency (LSA) established within the Ministry of Housing by Statute.

Except for the Cabinet itself, there is no statutory or high level coordinating mechanism for divergent components of land policy and management. Two mechanisms of high level coordination which existed for a while over the last few years have ceased to function. Briefly, there was a standing Cabinet Committee dealing with land related matters chaired by the Deputy Prime Minister[1]. There was also a sub-committee of the Interim National Physical Planning Commission (INPPC) dealing with land policy. This committee in fact functioned as the steering committee of the LUPAP project and was proposed to be established statutorily under the Planning and Development of Land Bill 2001. Most land policy matters -- including land policy, land information policy and a National LIS/GIS, Coastal Zone Policy and Development Regulations and parts of Land Use Policy and Development Standards -- were coordinated through the INPPC.

The proposals for integrating and coordinating most aspects of land policy through statutory committees of the Planning and Development of Land Bill seem to have floundered with a change in administration and there is a return to ad hoc Cabinet appointed committees.

It is clear that if those initiatives are not progressing there still remains a need for integrating and coordinating mechanisms for state land administration and management functions. Leadership and coordination continue to be the major stumbling blocks to implementation of accepted technical proposals.

3.1. Land Management Authority/ Commissioner of State Lands

At various times, specific land management agencies -- including a Land Management Authority (LMA) -- have been proposed to undertake the functions of the Commissioner of State Lands (COSL). The 1992 policy document proposed the restructuring of the Lands and Surveys Division (L & SD) into separate entities, one dealing with surveying and mapping functions and the other with land administration functions. This would have resulted in the Commissioner of State Lands functions being undertaken by a new office. This was agreed in various forms by Cabinet decisions of 1988, 1991 and as late as 1999. Subsequent to the 1999 decision the post of Commissioner of State Lands was actually advertised and candidates interviewed. However no one was finally appointed.

[1] There is no constitutional Deputy Prime Minister. This is just a tradition of the person who regularly acts for the Prime Minister in his absence from the country.

In order to implement this proposed separation of functions, a review of the activities of both arms of the L &SD was undertaken under the LUPAP project. This project also provided Land Administration reform systems and provided expert personnel to facilitate the separation. Further training in Land Administration to staff the Commissioner's Office was proposed and in cooperation with the UWI, St. Augustine Campus, a specialised Diploma was developed. Again these efforts may have been wasted in the short run as the reform of the L&SD appears to be stalled.

The establishment of a Land Management Authority (LMA) in the form of a State Corporation to replace most of the functions of the Commission of State Lands has been often proposed. There was a Cabinet decision to that effect in 1994. The LUPAP project has examined various options for the operations of the LMA. The following were recommended by the Government's Steering Committee:

- The Commissioner's Office was to revert to policy and overview functions probably to be integrated with the Land Policy Committee of the Proposed National Physical Planning Commission.
- The Land Management Authority was to directly manage residual state lands and coordinate and monitor the functions of the various agencies involved in managing state lands for sectoral purposes. This was to include the power to recall state lands from agencies vested with such lands for specific purposes when they were not being carried out.

The interests of improved market efficiency in the management of State lands would recommend that this approach be adopted. This would require that the state take back the right of agencies vested with specific sectoral management functions, to develop the lands not being used for those specific purposes. Three very specific examples illustrate the point. Caroni (1975) Ltd. inherited some of the best lands for sugar cane production. These lands are also some of the best lands for most types of other developments in the country. Should that development potential be used to subsidize an uneconomic and inefficient cane and sugar production function? Similar questions can be raised with respect to the Oil Company, Petrotrin. The Port Authority also has large holdings of valuable urban waterfront lands and the international record is that old port agencies do not make good urban waterfront developers.

The final proviso that must be made with respect to the operations of a Land Management Authority is the ethos of its operations. I mentioned earlier the concept of business and management efficiency. This would have to do with pricing and operation efficiency only. A distributional equity and beneficiary policy must address the historical imbalances in access to lands by the majority of the population.

Issues in respect of the operations of the COSL and the proposed LMA and their relationship are however complicated by a plethora of proposals to establish new

specialized land management agencies such as a National Parks Authority and special jurisdictions such as protected areas for wild life, and environmentally sensitive areas under the Environmental Management Act of 2002. Limitations of human, institutional and financial resources mitigate against successful implementation of the full range of proposals. While the objective of more effective management of various special and protected areas must be embraced, long-term management of State land resources (and therefore sustainability of special protected areas) would be better served by getting the Commissioner's Office and at least one effective State Lands Management Authority functioning. There is scope within the management and technical functions of such an authority for addressing the needs of specialized agencies or jurisdictions.

4. FUNCTIONS OF A STANDING CABINET COMMITTEE ON LAND

It is difficult to simultaneously put in place the full set of statutory and administrative procedures required to ensure effective coordination, integration and cooperation amongst the various agencies exercising land administrative or management functions. Jurisdiction and turf are used to resolve conflict rather than reason and it is often easier to hide behind statutory powers in a context in which relevant laws are not harmonized. Overlapping jurisdiction often occurs, and while this may even be desirable to ensure scrutiny and appropriate coverage of crucial issues, this can become problematic when there is no coordination between agencies.

It is important that there are mechanisms to overcome these problems at the highest level. A standing cabinet committee chaired by a senior Minister can facilitate such functions. Although a standing technical or expert committee is recommended, it may not be able to direct agencies when there is no consensus. A Cabinet Committee would be cognizant of the policy directives of the government of the day. However, through the committee of experts and stakeholders, it should have the best technical advice on the matters before it.

4.1. The Legislative Agenda

The 1992 Policy Document proposed that the 1981 Land Law Reform package be dropped because it was based upon an English precedent that was not relevant to the circumstances of Trinidad and Tobago at the time. The 1981 package comprised seven pieces of legislation. While the policy document noted that this package had not been proclaimed (implemented) due to a lack of financial and human resources, the 1992 policy still recognized the need for codification, simplification and integration of the legislation affecting land. At the time, it

listed some forty (40) pieces of legislation bearing on land administration and management.

It recommended proceeding on a legislative package with seven components:

- Not proclaim the 1981 package.
- Mandatory title registration supported by a comprehensive land information system.
- Land Adjudication legislation to facilitate expeditious and cost-effective determination of claims.
- Revision of the Partition Ordinance to facilitate realization of multiple interest in lands.
- New Land Surveyor legislation.
- New Town and Country Planning legislation.
- New Environmental legislation.

The objective of this group of legislation was to create a single all-inclusive system of public land title records for all lands in Trinidad and Tobago replacing

- Registering of Deeds (old law system)
- Registering under the century-old Real Property Ordinance and
- State land records.

It was expected that such a system would support speedy and low-cost transactions, remove widespread uncertainty over land title, and generally improve the land market. This 1992 report, as with previous and subsequent documents, asserted that such measures would address all forms of tenure insecurity and somehow through the efficient operations of the market make lands more easily available to the poor and thereby reduce the incidence of squatting. (The issues of squatting and land information will be addressed in separate sections that follow.)

Since 1992 significant progress has been made on this agenda. The three core pieces of legislation have been enacted.

- The Registration of Land Title Act 2000
- The Land Tribunal Act 2000
- The Land Adjudication Act 2000

A committee was appointed to take steps to facilitate the proclamation of the package by March 2001. The key legislation was the Registration Act and the other two facilitated this process. However, the committee never met. Recently a new committee was established by Cabinet to review the legislation, make recommendations on necessary revisions, and to oversee the preparation of

supporting subsidiary legislation for the package. It is also mandated to prepare an action plan for its implementation.

4.1.1. Land Tribunal:

In the 1992 document there was a broad based discussion on the nature and purpose of this tribunal. It was suggested that it would have both legal and technical membership and could, sitting in different divisions, deal with a range of land related matters. This would include appeals on planning decisions and on environmental reviews.

Subsequent to 1992 an Environmental Commission was established by the EMA Act 1995 to review decisions of the EMA. The establishment of this Commission has been lengthy and expensive and has only heard one matter to date. During the initial passage of the PADL through the Senate it was suggested that planning appeals be heard by the same Commission. However this would have required an alteration or enlargement in the composition of the membership to allow it to hear planning matters. A reform of the EMA Act to address planning matters was treated by the EMA and the environmental community as a dilution and thus an attack on its integrity.

Given the limited human, financial and institutional resources to deal with Land Adjudication/ Planning Appeals and Appeals against EMA decisions, the reality is that it will be extremely difficult and unsustainable to support three separate tribunals/ commissions. It still makes much sense to create one sustainable land oriented court that sits in various divisions.

4.1.2. Land Surveyor's Act:

There was a new land surveyor's legislation No. 33 of 1996. This act extended recognition to specializations other than Cadastral Surveys, such as hydrography and engineering surveys, and developed alternate registration requirements. Significantly, the act also recognized the UWI surveyor's degree as a primary qualification for initiating professional membership.

Environmental Legislation: While the 1992 policy document recognized the need for environmental legislation, it did not specify the nature of such. A combination of adherence to international conditionalities and the urgency to secure passage of the law led to an institutional arrangement out of harmony with existing English based systems and practices existing in almost every related area. Legalistic enforcement of the American-based model defeats attempts to harmonize, coordinate and integrate the work of related agencies and was set up as an independent, super-agency overriding the original jurisdiction of many agencies. The cumbersome requirements of memoranda of understanding to facilitate coordination flew in the face of attempts at coordinated policy and institutional arrangement in the broad area of land administration and management. There is no doubt of the need for proper environmental review and enforcement, but the

approach of creating a new super agency with limited resources may need some re-examination.

4.2. Land Information Management

The 1992 Land Policy Document raised a series of issues regarding state land information management.

- The lack of a full inventory of state lands in private occupancy.
- Public information regarding availability of state lands.
- Surveys of land utilization.
- Information on compliance with state leases.

With respect to the registration of title it understood the need to synchronize the implementation of an updated national land information system to deal with the introduction of a new title registration system.

History of National LIS/GIS: With the increased utilization of digital technology in spatial information management many agencies undertook upgrading of their GIS/LIS systems in an uncoordinated manner. Dating back to 1988 and 1991 Cabinet was appraised of the issues and need for a National GIS. A 1993 committee of key land information agencies put together a "Proposal for a National Land/Geographic Information System" which was published in 1994. Its recommendations were accepted in principle by the Cabinet in 1996. However the steps towards its realization have not been clear.

Various agencies such as the Water and Sewerage Authority (WASA) have pursued their own information management requirements to the point where they are functioning as a 'quasi' national agency for digitized mapping over and above the functions of the national mapping agency, the Lands and Survey Division. The Central Statistical Office is also pursuing a similar approach with respect to spatially referenced socio-economic and demographic data notwithstanding the difficulties this presents with respect to a coordinated approach to a National Spatial Data Infrastructures (NSDI).

In 1999 on the request of Cabinet the INPPC commissioned a working group on the establishment of a National GIS. Interestingly, this group found that many of the key elements of establishing a National GIS and a NSDI were already in progress and highlighted some key activities that needed to take place to proceed to a National GIS. It recommended a structure to manage a Natural GIS that was accepted in principle,and an Implementation Committee was established by Cabinet. While there have been some problems in moving the process forward due to the change in administration, many of the key elements have proceeded in a concerted but not necessarily coordinated manner. Under the Agricultural Sector

Reform Programme (ASRP) that promoted the LUPAP project the following key initiatives are proceeding:

- A Digital Parcel Index Map (PIM) and a Unique Parcel Reference Number (UPRN) system is in progress with the Lands and Survey Division in a supervisory role.
- The Land Registry which is in the process of being digitized, is to have its digitized records populated with UPRN's.
- The implementation of the Land Registry Act is under active review by a recently appointed Cabinet committee. A study was also supposed to be commissioned in this regard. It is to include elements of how to move all lands under the existing two registers into one register and study how that would impinge on a National LIS.
- The National Geodetic framework is also being upgraded.

There seem to be a few issues that can move the process forward.

- Apparently there is no specific champion for a national GIS/LIS at a high level of Government. The implementation committee appointed by Cabinet seems unable to get either clear directions or responses on its proposals or human or financial resources to proceed. This unclean mandate would also hamper the committee's ability to bring other agencies of Government in line for an integrated approach.
- While there has been an apparent consensus that the locomotive to achieve a National LIS/GIS is first through a digital land registry, this is not the only way forward. The approach has been used in certain Canadian cases which have been studied by the Government as possible models and partners. However this approach can take time and retard integration of other spatially referenced data than land transactions data. There seems to be strong support from the banking sector for the land transactions approach but a parallel development of other data may be possible with an appropriate NSDI.
- What is clearly lacking is a clear mandate to the committee appointed to the task and appropriate, technical, administrative and financial support.

5. LAND DISTRIBUTION

It seems that the 1992 policy document was caught up in the finer points of land administration with respect to the nature of leases and class of land and methods and rates of lease charges. While these matters need to be dealt with, two important

issues seem to have been assumed. The first is that equity and poverty alleviation is achieved by fine-tuning the institution that guarantees title rather than the mechanism that gives access to land. The second is that a leasehold interest is the best mechanism to ensure that the state's objectives are met. It would seem that both methodologies of giving security of tenure are important with access being more important, the more disenfranchised from land you are. With respect to leasehold tenure there are some issues which need further review before this assumption is retained.

Much of the Land Reform program discussed so far has focused on land market efficiency and land transaction efficiency as mechanisms for improving security of tenure. This section thus focuses on land distribution and beneficiary issues.

The Government has continuously distributed state lands at subsidized rates for agriculture and housing since independence in 1962. The largest has been under the Crown Lands Distribution Programme of the 1960s when some 10,000 hectares of agricultural lands were distributed, the most significant areas being Wallerfield and Carsen Field. The 1960s also saw large housing estates such as Diamond Vale, Morvant. This scale of distribution did not take place again until the late 1970's and early 1980's. Significant urban housing projects took place in and around Port of Spain and San Fernando in the intervening period. The Food Crop Farm project of the 1980's was spread throughout the country and there were significant housing projects at Maloney and La Horquetta. The late 1980's saw a shift towards squatter regularization and serviced land projects based upon the influence of the Sou Sou Land initiative. This included a large scale IDB funded national programme.

Many of the agricultural distributions have failed to meet production and sustainability expectations. It can be legitimately argued that there was inadequate infrastructure and extension support and many projects were on soils unsuitable for agriculture. Various analytic reports have also suggested that the beneficiary selection process did not always allocate lands to the best farmers, with the highest percentage of beneficiaries coming from urban areas. What is not directly mentioned is that criteria other than farming background may have been an unstated but real criteria for selection of beneficiaries.

Historically, rental as well as mortgage housing programmes operated by the State (although highly subsidized) tend to have very bad payment records by beneficiaries. Some of the impacts of low repayment included limited resources in the State agencies for maintenance, community and infrastructure development and limited new programmes. This has led to a cycle of decay and depression in most State-run low income housing projects.

The late 1990's saw a systematic land distribution programme for both agriculture and housing through the Land Administration (LAD) Division of the Ministry of Agriculture and the Land Settlement Agency (LSA) of the Ministry of Housing and Settlements. The LAD's programme was more intent upon regularizing leases of both

legal and illegal agricultural occupants of state land and included attempts to systematically record occupation via a State Land Information System (SALIS). The LSA programme included both squatter regularization and green-field low-income site and services projects with subsidized house construction support and financing. This latter programme is to be continued under a second IDB sector loan but with a greater emphasis on getting the lands into housing starts/completion.

There are a few lessons to be gleaned from these experiences:

- Beneficiary section criteria will affect the repayment schedules and viability of agricultural and settlements projects and political patronage must be guarded against (as much as is possible under our system of party politicians).
- There is need for better integration of rural and peri-urban residential and agricultural projects and clear lines cannot always be drawn. Existing separate procedures and standards result in irrational layouts juxtaposed next to each other. A comprehensive settlements approach is needed, perhaps under one agency addressing the needs of both housing and land distribution.
- Housing and land distribution projects cannot take place in an efficient and sustainable manner without enhancing institutional capacity in land use and settlement planning, utilities and infrastructure planning and a review of relevant development standards.
- Previous and existing squatter regularization programmes and low-income green-field sites have been unable to meet the demand. This has led to a continued proliferation of squatting with its environmental consequences. The main constraint continues to be the high level of standards being required by agencies and cumbersome implementation procedures. Given the scale of the problem this cycle needs to be broken by some large-scale infusion of serviced parcels of land. The present process of increasing security of tenure has also been retarded by land use planning, surveying and registration problems.
- The proactive aspect of the LSA agenda was a silent land reform This was to be achieved via its green-field programme to meet unmet demand in the low income group. This like similar national programmes before has faltered on implementation requirements. These requirements may sometimes be invoked by external agencies such as the IDB but are in large part the making of regulatory agencies and national standards. New draft land use standards addressing squatting and a small building code developed by the Interim National Physical Planning Commission (INPPC) may address this problem.
- A major shortcoming of squatter regularization problems to date is that they have addressed only half of the problem. Only state lands squatting has been dealt with in the 1998 Act. Either planning and municipal acts need to be broadened to address this problem via special planning jurisdictions and

standards or the squatter regularization needs to bring private tracts into its domain.

5.1. Land Reform Initiatives

There continues to be a need to address in a widespread manner the legacy of the historical imbalance in access to land inherited from the colonial context. In this regard two issues need review. The first is the cumbersome nature of lease management which effectively limits the ability of the state to meet its proactive goals in land distribution. More effective land use controls may be just as effective with freehold tenure since the state rarely revokes leases except for non-servicing of loans. This can be as effectively achieved by mortgage arrangements undertaken by financing institutions rather than a land administrative mechanism.

There continues to be mixed messages in land administration and management proposals. If market mechanisms are suggested to overcome access and poverty issues, then the supply issues need to be addressed. The state cannot retain supply for future generations and cause high prices in the present. Again the key issue is in effective land management procedures via the land use and environmental management and regulatory agency with strong enforcement capabilities.

The "real" or received differential access to government land distribution programme depending upon political affiliation or ethnicity needs to be addressed and resolved in a truly spatially national programme that is transparent and participatory in its planning and management.

5.2. Land Use Management

Effective land use management and appropriate standards and development approval procedures are fundamental objectives for achieving the land policy objectives as outlined in the 1992 policy document. That document recommended the revision of the Town and Country Planning Act and the establishment of a subdivision code or regulations stipulating the procedures involved in the development control process. These two items became policy agreement between the Government and the IDB for drawdowns under the ASRP and pre-requisites for the proposed Agricultural Sector Investment Programme (ASIP).

In 1995 a Cabinet committee was convened which recommended substantial changes to the existing regime including devolution not just of development control but also development (forward) planning to municipal authorities, unification and simplification of land use and building approvals, established appeals mechanism, special regimes for squatter regularization and non-viable older subdivisions, and the establishment of an advisory planning commission.

A subsequent committee made further amendment to the proposed Bill, the key being the establishment of an integrating and coordinating function amongst

physical planning and regulatory agencies through a strengthened National Physical Planning Commission (NPPC). Because many of the day to day powers of the Minister were to be delegated to this broad public/ private stakeholders Commission, it would also acquire some executive powers. This Commission which was to replace the Town and Country Planning Division and the Building Branch of the Ministry of Works. It also acquired a range of policy framing functions to be operated via statutory committees. These included (a) Land Policy, (b) National Codes and Standards, (c) Development Planning, (d) Coastal Zone Planning and Regulation and finally, (e) Development Control including a statutory established "one stop" shop sub-committee.

The work of the proposed NPPC was initiated via an Interim Commission (NPPC) pending passage of legislation. Its work to date has included advances in most of its proposed areas of mandate. Presently however the change of administration has resulted in a hiatus. The reform programme has halted and the operating resources of the INPPC have been drastically reduced. The exact direction, if any, of land use planning and management reform remains unclear. There are however some critical side issues other than land use planning -- with respect to the registration and regulation of Built Development Professionals, fast tracking of development applications by such professionals and the whole area of land policies and coastal policy reform – that also need to be addressed from the PADL.

5.3. Coastal Zone Management

Existing land use management policy has historically ended at the high water mark and land administration rather than land management has been undertaken from the high water mark seawards to the extent of the EEZ by the office of the Commissioner of State Lands. Additional jurisdictions involved in management of coastal and marine lands includes the Ministry of Energy with respect to the exploitation of petroleum and natural gas resources and the Drainage Division of the Ministry of Works with respect to river estuaries, coastal erosion and defence works.

Land management issues generally have been undertaken by ad hoc and cabinet appointed committees such as the West Coast Master Plan Committee and the Reclamation Committee which has an advisory role with respect to dredging, dumping, coastal structures, defence works, mooring, jetties, piers and reclamation. These functions have also not had resources available for technical support or appropriate studies and development of standards. Administrative support has historically been supplied by the Director of Survey and, for a few years in the recent past, by the INPPC.

The state of coastal land administration and management in Trinidad and Tobago is a Caribbean embarrassment. While Trinidad and Tobago enjoys the most

lucrative off-shore resources in the region and has one of the more complex maritime boundaries with Venezuela, it has done little to upgrade its management and administrative capability in this area. The hydrographic and bathimetric mapping is outdated and incomplete. The offshore cadastral and boundary mapping is inadequate. There has been no systematic development planning or studies for this sustainable management of the coastal or marine lands. The only standards and policies that exist are preliminary ones developed by the West Coast Master Plan Committee on a shoestring budget. While those standards provided a quantum leap to what existed previously and have Cabinet's approval in principle, they are preliminary and need to be properly developed.

There have been no resources provided under either the recurrent or capital budgets for the last five years despite repeated requests from the WCMP/Reclamation Committee. This is in a small part due to a lack of clarity as to the exact jurisdiction. The 1992 policy document had proposed a seabed Authority to address some of the problems in the coastal zone but it was more of a land administration improvement at the expense of management issues. There is need to place all the components of coastal zone management under one umbrella and establish a properly funded and dedicated administrative unit to develop this area as had been proposed in the 2001 BADL Bill passed in the Senate. There may eventually be the need to enact appropriate empowering legislation governing the coastal zone and the EEZ.

5.4. Ethnicity and Land Policy

One of the issues that has not been well developed in the southern Caribbean is the inter-relationship between ethnicity, land, and post independence politics. In an early work Wood (1968) considered that this was an important relationship and contrasted Guyana with Trinidad. While he noted the presence of the issue in Trinidad he suggested that it was not as critical as in Guyana where the racial and political lines are more clearly drawn. However, in light of present day politics in Trinidad and Tobago, his insight would have to be reviewed.

There are two aspects of the relationship that need to be explored further. The first has to do with the underlying fear that the two ethnic groups have of the "other" getting greater access to land resources either via the State or the market. This is because access to land by either group is perceived to restrict access by other. There is some evidence that politicians use this as a mechanism to mobilize their constituencies at election time. Such political activities and ethnic perspectives would thwart the rational development and implementation of broad land distribution and welfare programmes.

The other aspect that is also not properly developed is that people of different cultural backgrounds approach the ownership, use, and alienation of land in different ways. Besson and Momsen (1987) amongst other authors have studied

how afro-Caribbean people view ownership of land. These values have affected common ownership and stewardship of "family land" traditions that are not in harmony with the single ownership that is normally part of the land market rationalization and land registration processes. In contrast, East Indian attitudes to land in the Caribbean -- though not so well studied -- seem to support individual ownership processes. It seems the two cultural groups appear to support access and use of lands differently. It is a useful question to ask whether land registration processes and land use regulations in small societies can be adapted away from European and North American influences to accommodate heterogeneity.

Finally on this issue, there is the possibility that there are deep underlying factors that mitigate against clear, rational policies and programmes in land titling, distribution and use. Unless ethnic and cultural issues are brought into the agenda in the southern Caribbean in dealing with land, it may be difficult to understand why apparently technically sound programmes run into implementation problems.

6. TRAINING IN LAND ADMINISTRATION AND MANAGEMENT

The human resource context in this area is substantially better now than it was a few years ago. In 1984 a Land Surveying B.Sc. was introduced at the Faculty of Engineering, UWI, and in 1994 a specialization degree in Geographic Information Systems (GIS) was added followed by professional training in Planning and Development. In 2003 a Graduate Diploma in Land Administration has started in response to a Caribbean initiative of the Prime Minister Office, Jamaica and the LUPAP programme. Key deficiencies remain in the area of Valuation Surveying Coastal Zone Planning and Management and para-professional and technical training in all the above areas. The UWI is in discussions with the professional association for Valuation Surveying to introduce professional training in this area and it may possibly come on stream in 2-3 years. Technical and para-professional training is the purview of other national institutions, and little is being done in these areas.

An important challenges in upgrading the human resources of existing institutions is the need to develop alternate delivery modes of training where release time for employees is difficult. The UWI is already experimenting with intensively taught modular forms and distance learning via the internet. The UWI programmes are Caribbean programmes not geared solely for the Trinidad and Tobago environments and there is thus need for it to be in constant dialogue with regional governments and professional associations.

6.1. Tobago

The Tobago House of Assembly established by statue confers many elements of autonomy for Tobago with respect to land administration and management. The THA Act is however an enabling Act and specific mechanism need to be put in place to give full effect to this intention. There are also some issues to be clarified as to what is dealt with at the national level and the regional jurisdiction. Certainly the lack of technical, financial and institutional resources nationally in these areas recommend that resources not be duplicated or wasted.

Under the LUPAP specific mechanisms and arrangements were proposed with respect to land use planning and land administration in Tobago and on relations with the central government. The EMA has a working relationship with the House of Assembly and a conceptual development plan was done for Tobago in the 1999-2000 review of Development Plans by central government. The key remaining issue is the availability of appropriate technical resources to allow the THA to fully implement the level of autonomy intended in its enabling Act.

While there are many similarities between land issues in Trinidad and those in Tobago, there are some significant differences. One important difference is that there is no underlying ethnic tension between the African and Indian population. Tobago however has a strong history of accepting informal titles as a legacy of the Metayage system in the 19th century. This can pose serious obstacles to a properly functioning land market.

Land pricing is also an issue with the land price inflation brought about by tourism development and residential tourism, much of the latter type circumventing the rules governing foreign ownership of land.

6.2. Participation In Policy And Programme Formulation And Implementation

As with most areas of public activity, land policy formulation and implementation faces a real challenge in getting the support of civil society and key stakeholders. A national consultation exercise in 1992 conducted by the Caribbean Network for Integrated Rural Development (CNIRD) found that very few if any agricultural organizations has been consulted by the Wisconsin Land Tenure Centre in the major land policy and programme analysis.

The study had systematically conducted 435 interviews in Trinidad and Tobago, so that farmers' views could be considered in the recommendations. However, this did not facilitate the long-term involvement of farmers in possible monitoring and evaluation of proposed policy and programmes, as involvement was best achieved through engaging their representative organizations.

A skeptical Trinidad and Tobago society during 1999-2001 was very critical of measures proposed in the PADL and the passage of that Bill through the Senate

was rocky and difficult. At the same time, it was one of the more intensively reviewed land related pieces of legislation, and that is a positive aspect of the situation.

As land matters so deeply affect everyone in the society and the voice of the poor is not normally heard there is need for more exposure to the national community and targeted groups to policy programmes and statutory reform. This is critical because of the suspicions that exist of the "other" in land matters between the two major ethnic groups in the society and their leadership. The land policy development exercise conducted by the government of Jamaica has lessons which could be shared with the broader Caribbean with respect to participatory policy development. The LUPAP project in Trinidad has also attempted to bring local government authorities into the process of land policy and programme formulation -- especially institutions in the collaborative approach utilized with the Tobago House of Assembly, consultants, and the INPPC.

7. CONTINUITY

The rapid changes in political administration and their negative impact on continuity of land administration and management reform represents one of the most critical areas to be addressed. The 1992 Policy document had recommended a standing technical committee to keep land-related legislation under review. Such a measure is necessary but there need to be mechanisms to de-politicize land policy formulation -- if that is at all possible in adversarial electoral systems such as exists in our society.

One mechanism that was proposed in the PADL was a statutory committee with named representatives from both the public and private sectors. This however would need to be populated with individuals of national stature and personal dedication to the task.

Along with the proposal of a standing Cabinet committee on land matters there may be need for a standing committee of the Parliament to review legislation and make bipartisan recommendations on policy and budgetary recommendations on land matters. The onus is however on a sitting government to make the right concessions to ensure continuity of even its own policy and programmes in the future.

7.1. Recommendations

The country paper has made recommendations in almost every topic area. This section does not attempt to repeat all but a few of the key recommendations.

- Establish a Standing Committee on land-related matters of the Cabinet under the chairmanship under a senior Minister.
- Reactivate a standing core committee of technical experts on land related matters. This committee should include a range of experts from the university, the public service and civil society. Its membership should constitute respected individuals who can survive changes in administration and provide leadership to inconsistent review and reform of the land administrative and arrangement systems. The now disbanded LUPAP steering committee which functioned as a forerunner to the Land Policy Committees under the proposed PADL can provide a model for statutory establishment of such a committee.
- Because specific needs do arrive at different historical periods, the core land policy committee should have short term technical working groups and sub-committees to give effect to its various elements. Specific sub-committees which should be immediately established are:
    - Legislative review committee whose mandate is to keep the plethora of land-related legislations under review and make recommendations for updating them.
    - Land Information/GIS committee which should be changed with continuing the existing mandate of the present National LIS/GIS Cabinet appointed committee in the first instance and thereafter provide a policy and programme review function of the National LIS/GIS system.

  Ad hoc technical working groups or technical capability should be established in the following areas, with others to follow as needed.

    - Commissioner of State Lands/State Lands Management Authority – roles and relationship.
    - Review of the technical components of the ASIP including the Geodetic Reference Systems and the UPIN and PIM systems.
    - Remotely and satellite sourced data - acquisition and management.

    - The PADL reform process should be pursued with some vigor. Even though it may be redirected by the Administration of the day a fair amount of national debate has arrived at a national consensus on certain issues at the present and this should not be squandered.
    - Under the PADL or separate legislation there is need to pursue the requirements of Integrated Coastal Zone Management. Technical

and financial resources are urgently needed to facilitate studies of policy standards for development and management objectives. Certainly in the short-run these efforts should be concentrated in one Ministry and be under the purview of a single technical/stakeholders committee. Participatory policy and programme development in the area of Land Administration and Management would provide the key to stakeholders "buy-in" by alleviating suspicion of the "other" in land distribution programmes and by promoting continuity between in political administration.

Bibliography

Besson, Jean and Janet Momsen (eds) (1987), Land and Development in the Caribbean. Warwick Caribbean Studies, MacMillan Publishers Ltd, London & Bassingstoke.

Burnley, William (1842), Observation on the present condition of the island of Trinidad and the actual state of the experiment of Negro emancipation. Longman, Brown, Green and Longmans, London.

Government of Trinidad and Tobago (GOTT) (1993), "A New Administration And Distribution Policy for Land 1992", Ministry of Planning and Development.

INPPC (2000), Working Group Report (Chair R. Jagganath). The Establishment of a National Land/ Geographic Information System of Trinidad and Tobago. Ministry of Integrated Planning and Development.

Land Tenure Centre (1992), Land Rationalization and Development Programme. Final Report Ministry of Agriculture, Land and Marine Resources.

Land Tenure Centre (2000) Report on a Land Management Entity for State Lands, Land Use and Administration Project (LUPAP). Ministry of Agriculture, Lands and Marine Resources.

Prentice-Pierre, Erica (2002), Tenure Insecurity and the Growth of Informal Settlements on Peri-Urban Land: A case study of River Estate Diego Martin. Unpublished M.Sc. Project Report, University of the West Indies, St. Augustine.

Rajack, Robin (1999), Squatter Regularization, Perception-based Tenurial Security and Dwelling Iimprovements – Evidence from Trinidad. Mimeo, Land Settlements Agency.

Stanfield, Singer et. al. (1992), Land Tenure and the Management of Land Resources in Trinidad and Tobago (Parts 1 and 2). Wisconsin Land Tenure Center.

Wood, Donald (1968), Trinidad in Transition. Oxford University Press, London and New York.